

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Bail Appl..No. 7398 of 2007()

CMP.3263/2007 of J.M.F.C.-II,HOSDRUG
CRIME NO.471/07 OF BEKAL POLICE STATION
.....

PETITIONERS : ACCUSED NOS.1 AND 2:

1. RAJESH.P., S/O.RAMAN, AGED 27 YEARS,
PULIKKAL HOUSE, KALINGOTH, NELLIYADUKKAM,
PANAYAL VILLAGE.
2. P.RAMAN, S/O.APPA, AGED 63 YEARS,
PULIKKAL HOUSE, NELLIYADUKKAM, PANAYAL VILLAGE.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT:

STATE OF KERALA THROUGH THE SUB
INSPECTOR OF POLICE, BEKAL POLICE STATION,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT O F KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

B.A.No.7398 of 2007

Dated this the 3rd day of December, 2007

ORDER

Application for regular bail. Petitioners are accused 1 and 2. They face allegations in an F.I.R registered initially under Section 302 I.P.C and later altered to Section 304 I.P.C. There was a dispute regarding the pathway between accused 1 and 2 on the one side and the deceased and his son on the other. On the date of the incident ie. 6.11.07, the son of the deceased had come along the pathway on his motorcycle. He was allegedly stopped by the petitioners herein. There was an altercation. The deceased, on coming to know of the incident, came to help his son. In furtherance of their common intention, the 2nd accused is alleged to have attacked the deceased by picking up a stone and hitting the deceased on his head. He suffered injuries. The deceased breathed his last at the scene of the crime itself. In this context, crime was registered under Section 302 I.P.C. In the course of investigation, it was revealed that there was an external injury on the head. There was no corresponding internal

injury on the head and that death was not attributable to the external injury suffered on the head. Acute coronary insufficiency is the alleged cause of death. The petitioners were arrested on 14.11.07. They have been continuing in custody from that date.

2. The learned counsel for the petitioners submits that at worst, there is only scope for an allegation against the petitioners for the offence committed under Section 324 r/w 34 I.P.C. The same is a bailable offence. In any view of the matter, it is not necessary to authorise continued detention of the petitioners.

3. The learned Public Prosecutor has taken me through the postmortem certificate. Application for regular bail is not opposed. Appropriate conditions may be imposed, it is prayed.

4. I am satisfied that the petitioners can be granted regular bail subject, of course, to appropriate conditions. It is not necessary for me to delve deeper into the disputes between the contestants and enter any findings about the precise section of offence that will be attracted.

5. In the result, this application is allowed. The petitioners shall be released on bail on the following terms and conditions.

i) The petitioners shall execute a bond for Rs.50,000/- (Rupees Fifty thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) During the said period of 2 months, the petitioners shall not enter the jurisdiction of Bekal Police Station without the prior permission of the learned Magistrate except for the purpose of complying with condition No.(ii) above.

(R.BASANT, JUDGE)

rtr/-